

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)	
)	
Revision of the Commission's Rules)	CC Docket No. 94-102
To Ensure Compatibility with)	
Enhanced 911 Emergency Calling Systems)	
)	
Amendment of Parts 2 and 25 to Implement the)	IB Docket No. 99-67
Global Mobile Personal Communications by)	
Satellite (GMPPCS) Memorandum of)	
Understanding and Arrangements.)	

**COMMENTS OF THE
CELLULAR TELECOMMUNICATIONS & INTERNET ASSOCIATION**

The Cellular Telecommunications & Internet Association ("CTIA")¹ hereby submits its Comments in the above captioned proceeding² regarding the Commission's reevaluation of the scope of communications services that should provide access to emergency services.

INTRODUCTION

As the Commission notes, nearly ten years has passed since the Commission first proposed rules to provide access to 911 and enhanced 911 ("E911") services to users of mobile communications services.³ While most CMRS licensees are required by the Commission's rules

¹ CTIA is the international organization of the wireless communications industry for both wireless carriers and manufacturers. Membership in the association covers all Commercial Mobile Radio Service ("CMRS") providers and manufacturers, including cellular, broadband PCS, ESMR, as well as providers and manufacturers of wireless data services and products.

² See *Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems*, CC Docket No. 94-102, *Further Notice of Proposed Rulemaking*, FCC 02-326 (rel. Dec. 20, 2002)(*Further NPRM*); Public Notice, DA 03-209 (rel. Jan. 27, 2003)(extending comment date).

³ *Further NPRM* at ¶ 3-4.

to provide basic and E911 service, the *Further NPRM* seeks comment on whether resold CMRS services should be required to provide access to 911 service, and also considers whether Mobile Satellite Services (“MSS”) and emerging technologies such as IP Telephony should be required to comply with the Commission’s 911 and E911 rules.

The issues raised in the *Further NPRM* must be considered within the larger context of the technical and operational issues that affect wireless E911 deployment. CTIA believes the Commission should extend its basic and E911 obligations to all similarly situated providers since the public will not understand the nuanced difference between a facilities-based, licensed CMRS service provider and a reseller (or Mobile Virtual Network Operator) or MSS licensees, especially MSS providers offering ancillary terrestrial component service. However, this is not the time to further strain the resources of Public Safety Answering Points (“PSAPs”) -- who already are struggling to keep pace with the rapid deployment of wireless E911 services – by requiring them to support evolving IP Telephony technologies that cannot piggy-back on their legacy systems.

Fortunately, the Commission has the Hatfield Report as a guide to these issues.⁴ As is now well known, Mr. Hatfield found constantly changing requirements will lead to delays in the rollout of wireless E911 services.⁵ Moreover, the Hatfield Report addressed the issue of PSAP readiness, and identified some critical areas of concern: “PSAP fatigue” which is described as a limit on how much coordination can be carried out on a volunteer basis by PSAP personnel with

⁴ See generally Dale N. Hatfield, *A Report on Technical and Operational Issues Impacting the Provision of Wireless Enhanced E911 Services*, Public Notice, DA 02-2666 (“Hatfield Report”).

⁵ Hatfield Report at 40.

full time responsibilities in their home agencies;⁶ the difficulty PSAPs are encountering obtaining sufficient funding to request wireless E911, and even more troubling, the recent redirection of E911 funds by state legislatures who seek to fund other programs;⁷ In one of the Hatfield Report's most significant findings, Mr. Hatfield concludes that PSAP readiness remains a potential detriment to the rapid and efficient rollout of wireless E911 services.⁸

I. Resold CMRS Service, Prepaid Calling, and Disposable Phones

The Commission asks whether it should impose 911 and E911 requirements on resellers, providers of pre-paid services, and those who offer disposable phones.⁹ In all three cases, the underlying CMRS licensee is subject to the Commission's basic and enhanced 911 rules.¹⁰ In each instance, however, the facilities-based CMRS licensee does not control the provisioning of the users' handsets.¹¹ CTIA believes the Commission should extend its basic and E911 obligations to all similarly situated providers since the public will not understand the difference

⁶ Even the National Emergency Number Association ("NENA") describes their "Strategic Wireless Action Team" ("SWAT") initiative as involving a "handful" of public safety technical and operations experts. *See NENA Ex Parte Communication*, CC Docket No. 94-102 (Oct. 31, 2002), at 3.

⁷ For a listing of states that have raided 911 funds, see "Enhanced 911 Calls Still Far From Wide Coverage," *USA Today*, (Oct. 25, 2002); and "Warner Eyes Phone-Tax Funds' Transfer," *The Washington Times*, (Oct. 29, 2002).

⁸ Hatfield Report at 31.

⁹ *Further NPRM* at ¶¶ 92, 98 and 103.

¹⁰ *Id.* at 98, citing 47 C.F.R. § 20.18(a).

¹¹ Because of the Commission's "all calls" rule, 47 C.F.R. § 20.18(b), prepaid and disposable phone users may obtain service (and a wireless phone) with the sole intent of using the handset to dial 911. After their allotted usage is exhausted, these customers, along with purchasers of "911-only" phones, have no contractual relationship with any wireless carrier.

between a facilities-based, licensed CMRS service provider and a reseller of CMRS service.¹²

As a matter of both policy and law, it should make no difference whether a reseller provides a pre-paid or post-pay service, or whether a pre-paid service provides customers with a rechargeable account or a disposable phone.

CTIA starts from the premise that resellers of commercial mobile radio service (“CMRS”) licensees are classified as CMRS providers. And as such, the Commission has imposed the same regulatory obligations on resellers that it has imposed on facilities-based CMRS licensees.¹³ Accordingly, resellers should be responsible for complying with the FCC’s E911 rules. Moreover, wireless customers cannot be expected to understand the distinction between licensees and resellers. Indeed, as many of the CMRS complaints received by the Commission demonstrate, customers frequently are unaware that their service provider is reselling service provided by another company.

As noted above, because the reseller typically provides the customer with a handset, the licensee does not control new handset activations. This is especially important for the customers of resellers who resell the service of CMRS licensees that have selected handset-based Phase II location technologies.¹⁴ Resellers may, however, seek to exploit the flexibility the Commission has provided facilities-based CMRS carriers. Absent rules addressing this situation, a reseller

¹² Resellers of CMRS licensees are themselves classified as providers of CMRS. *See, Second CMRS Order*, 9 FCC Rcd 1411, 1425 ¶ 37 (1994).

¹³ *See, e.g., Second CALEA Reconsideration Order*, 16 FCC Rcd 8959 (2001)(CALEA compliance); *Universal Service Order*, 12 FCC Rcd 8776, 9179 ¶ 787 (1997)(Universal Service support); *Third NRO Order*, 17 FCC Rcd 252, 278 n.151 (2001)(number utilization and reporting rules).

¹⁴ On the other hand, resellers that resell the service of a CMRS licensee that has deployed a network-based Phase II location solution would not have to provide customers with handsets that support handset-based location technologies.

could resell the service of a licensee that has selected a handset based Phase II location technology, but provide handsets to customers that will not provide Phase II capabilities when used on that licensee's network.

II. Mobile Satellite Services

The Commission also asks whether it should impose 911 and E911 requirements on providers of Mobile Satellite Services. There is no reason why MSS should be exempted, especially if consumers can substitute MSS with ancillary terrestrial component ("ATC") service for traditional terrestrial CMRS offerings.¹⁵ The Commission's 911 rules permit the licensee to select the most appropriate location technology. While network based solutions appear problematic in the MSS environment, handset based solutions would seem particularly promising. Not only has the Commission, through its E911 rules, provided the spur to the rapid commercialization of A-GPS handset based location technology (to the extent there now are millions of handsets in operation that use this technology), MSS handsets must have greater sensitivity than terrestrial CMRS handsets, which is an advantage in receiving and processing GPS signals.

In the *Further NPRM*, the Commission suggests that MSS providers might find it difficult to comply with the E911 rules. For example, the Commission notes that modifying the satellite network infrastructure to accommodate enhanced emergency call information would require network modifications to forward ANI and ALI "such as retrofitting switches throughout the network and making costly private trunking arrangements between earth stations and

¹⁵ See, e.g. *Flexibility for Delivery of Communications by Mobile Satellite Service Providers in the 2 GHz Band, the L-Band, and the 1.6/2.4 GHz Bands, Report and Order and Notice of Proposed Rulemaking*, IB Docket Nos. 01-185, 02-364, FCC 03-15, at ¶ 1 (rel. Feb. 10, 2003) (permitting "MSS licensees to integrate ancillary terrestrial components (ATCs) into their MSS networks").

PSAPs.”¹⁶ The Commission also observed that PSAPs would need to make modifications to their equipment in order to receive E911 call data from a satellite network and that there is uncertainty whether the PSAPs have begun making these modifications.¹⁷ While these concerns are certainly significant, handset based technology may provide a more promising alternative. Although the Commission notes that adding GPS chipsets to satellite handsets might add as much as \$30 to the cost of a handset,¹⁸ and potentially add to the weight and size of these handsets,¹⁹ there is no reason to assume that the cost and complexity of adding A-GPS capability to MSS handsets is any greater (and it may indeed be less) than what is required to provide handset based Phase II location capabilities to terrestrial CMRS handsets. Here again, customers should not be expected to understand the distinction between such close wireless service substitutes, and it would be inequitable to hold MSS service providers to a lesser standard.

III. Emerging Technologies

Finally, the Commission seeks comment on the extent that its 911 and E911 rules should be extended to emerging technologies such as IP Telephony. Internet based voice and data services are just now being introduced on both wireline and wireless networks. In the context of CMRS, many new packet based devices will be introduced which do not use circuit switched networks. These wireless devices provide voice and data IP-based services over the Internet (and other data networks) rather than the Public Switched Telephone Network (“PSTN”).

¹⁶ *Further NPRM*, at ¶ 30.

¹⁷ *Id.* at ¶ 32.

¹⁸ *Id.* at ¶37.

¹⁹ *Id.* at ¶41.

While handset based GPS technology may be suitable for devices using this emerging technology, it will be sometime before such devices can provide the location capabilities mandated in the Commission's rules. Today, while GPS modules are available for PDAs, they can cost more than the PDA itself. If the 911 and E911 mandates must be met before such devices could be marketed, many valuable devices might be abandoned as too expensive to develop. The Commission must avoid creating regulatory burdens that reduce innovation.

Moreover, PSAPs will have to establish Internet connectivity and upgrade their systems to receive data from these devices. IP based telephony raises unique challenges to the legacy 911 system, especially when devices do not have a traditional "telephone number" to identify the device and provide routing and call-back information. As the Hatfield Report cautioned, now is not the time to be imposing new 911 requirements, especially on PSAPs who are struggling to catch up with carriers' deployment of Phase II location capabilities.

CONCLUSION

For the foregoing reasons, reseller and MSS services should be subject to the same 911 and E911 obligations imposed on traditional CMRS carriers. However, at the present time, the Commission should not to extend these obligations to emerging IP based devices and services

Respectfully submitted,

/s/ _____

CELLULAR TELECOMMUNICATIONS & INTERNET ASSOCIATION

1250 Connecticut Ave., N.W., Suite 800
Washington, D.C. 20036
(202) 785-0081

Michael F. Altschul
Senior Vice President & General Counsel

Its Attorney

February 18, 2003